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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,746	03/07/2002	Robert D. Feldman	FELDMAN 11-1-1-2-8	2870

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PATTERSON & SHERIDAN, LLP/
LUCENT TECHNOLOGIES, INC
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

EXAMINER	
WANG, QUAN ZHEN	

ART UNIT	PAPER NUMBER
2613	

MAIL DATE	DELIVERY MODE
01/23/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/092,746	**Applicant(s)** FELDMAN ET AL.	
	Examiner Quan-Zhen Wang	**Art Unit** 2613	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,3-10,12-14,16 and 18-20*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed one January 7, 2008 have been fully considered but they are not persuasive.

Applicant states "The applicant respectfully reiterates that neither Maddocks, Rowley, nor Maddocks in view of Rowley leach or suggest the claimed 'counter-propagating supervisory channel'". However, the fact is that combination of the prior art references reads on the claims with their broadest reasonable interpretation in light of the specification. In accordance with MPEP, "USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003)." See MPEP §2106.

Applicant argues that "Maddoclcs teaches supervisory and data signals on light guides 5 and 6, but propagating in the same direction with respect to each other." Examiner respectfully disagrees. As it is clearly illustrated in fig. 1, the signals on light guide 5 propagate from the left hand side to the right hand side. While the signals on light guide 6 propagate from the right hand side to the left hand side. Thus, the data signal on light guide 5 and the supervisory signal on light guide 6 clearly propagate in the opposite directions, or counter propagating. The data signal on light guide 6 and the supervisory signal on light guide 5 also clearly propagate in the opposite directions. Maddocks further discloses reducing the power level of an optical data signal (the drawing, signal from amplifier 8) propagating in the optical fiber path (column 3, lines 44-49. When only one fiber is used for the system, the counter-propagating supervisory channel is propagating in "the optical fiber path".) in response to a loss of a counter-propagating supervisory signal (the drawing, supervisory signal generated from supervisory insert 16) in another optical fiber path (the drawing, fiber 6); reducing counter-propagating optical power (the drawing, data signal from amplifier 15) in response to a loss of the optical data signal (the drawing, the loss of data signal from amplifier 8; column 2, lines 63-67 and column 3, lines 1-15).

As it is clearly stated in the above rejections, Maddocks only differs from the claimed invention in that Maddocks does not specifically disclose that the counter-propagating optical supervisory signal is propagating in the same optical fiber as the optical data signal. However, it is well known in the art to counter-propagate optical supervisory signal in a same optical fiber in which the optical data signal propagates. For example, Rowley discloses to counter-propagate optical supervisory signal in a same optical fiber in which the optical data signal propagates (fig. 2. Note that the supervisory channel detected by detector 16 is "counter-propagating" with respect the signal transmitted by transmitter 14. Similarly, the supervisory channel detected by detector 16' is "counter-propagating" with respect the signal transmitted by transmitter 14'). Therefore, it would have been obvious for one of ordinary skill in the art at the time when the invention was made to configure the system of Maddocks to counter-propagate a supervisory signal in the upstream optical fiber, as it is taught by Rowley, in order to quickly detect the fault if there is a fiber break.

Applicant further argues, "There is no supervisory signal in Rowley". Examiner respectfully disagrees. Rowley clearly and explicitly illustrated a "SUPERVISORY AND ERROR DETECTOR CIRCUIT" in fig. 2. Rowley also specifically and explicitly discloses in column 5, lines 48-51 "Alternatively or additionally, the inversion may alter supervisory signals such as the frame alignment signal so that fault condition is indicated". Rowley clearly and undoubtedly discloses "supervisory signal". Furthermore, as it is illustrated and clearly labeled in Fig. 2, the data signal transmitted from TxA 14 and the supervisory signal detected by detector circuit 16 propagate in opposite directions in fiber 3.

Applicant argues "Rowley's 'supervisory and error detector circuits' (fig. 2) reside after receivers 15 and 5', functioning fully in the digital domain, and digitally monitoring for discrepancies only in the encoded data signal." However, in accordance with MPEP, "Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003)." See MPEP §2106. The claim language of the instant application do not distinguish the claimed invention from the prior art references. The "supervisory signal" of Rowley reads on the claimed "supervisory signal".

In view of the above discussion, the combination of the prior art references clearly reads the claims with their broadest reasonable interpretation and Examiner has established a prima facie case of obviousness. Therefore, the rejections of the claims still stand.

JASON CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600